

REMARKS**Overview**

Claims 1-39 are pending in the present application. The present response is an earnest attempt to place the application in proper form for immediate allowance. Reconsideration and passage to issuance is therefore respectfully requested. The issues raised in the Office Action will be addressed in the order presented therein.

Claim Objections

The minor revisions suggested by the Examiner to claims 3 and 35 have been adopted.

35 U.S.C. § 112 Matters

The change in dependency of claims 11 and 12 suggested by the Examiner has been adopted which overcomes this rejection.

35 U.S.C. § 103 Rejections

All the claims have been rejected under § 103 as being obvious. The primary reference is U. S. Patent No. 6,556,974 ("D'Alessandro"). Each of the rejections also uses U. S. Patent No. 6,775,781 ("Phillips") as a secondary reference. Several § 103 rejections add other patents to the combination of D'Alessandro and Phillips for certain dependent claims.

The obviousness rejection is respectfully traversed on two grounds.

First, attached is a Rule 131 Declaration which is filed relative to Phillips. It is respectfully submitted the Rule 131 Declaration effectively antedates Phillips. As each obviousness rejection relies on at least a combination of D'Alessandro and Phillips, it is

respectfully submitted that a *prima facie* case of obviousness is not made out by any of the §103 rejections and the Applicants' claims 1-39 are allowable over them.

Secondly, notwithstanding the antedating of Phillips, it is respectfully submitted that no combination of references teaches Applicants' claimed invention. In order to sustain a *prima facie* case of obviousness, the cited references must be (a) analogous art (b) which teach a reason, suggestion, or motivation to combine or modify the references (c) in a manner which appears to show or suggest the claimed invention to one of ordinary skill in the art. Applicants' claim 1, for example, specifically defines a "method of evaluation or assessment of persons, jobs, or employees". D'Alessandro explicitly excludes from its teaching assessment of individuals (see D'Alessandro col. 1, lines 14-39 and col. 2, lines 55-64). D'Alessandro specifically is aimed at evaluating performance of an organization. Phillips, on the other hand, entitled "Administrative Security Systems and Methods", specifically is limited to "administrative security of an operating system on a computer and/or a computer network appliance" (Phillips, col. 1, lines 14-156). Phillips defines a computer appliance or network appliance as "a computing device that is similar in many respects to a general purpose computer" (col. 1, lines 19-21). Therefore, Phillips is very narrowly directed to a special type of processing device. On that point alone, the combination of D'Alessandro and Phillips is incongruous. There is no suggestion in D'Alessandro of any need for administrative security of a special "computer or network appliance". There is no suggestion in Phillips that its administrative security system is indicated for a system for assessing performance of an organization. Thus, there is no suggestion of combination of D'Alessandro and Phillips. And there is no suggestion of the claimed invention even if they were combined.

But, further, step (b) of Applicants' claim 1 describes "initializing a set of permissions relative to the password." The term "the password" is defined at step (a) in "assigning a

password for a respondent". D'Alessandro describes a log-in procedure for external respondents. It includes a password that identifies the organization "as a whole" (col. 6, line 10). It thereafter simply calls for identifying information of the person that has now gained access with the single password. There is no suggestion or teaching of "initializing a set of permissions relative to the password" assigned "to a respondent", as in Applicants' claim 1. Phillips does disclose different "privileges" to users, but those users are not "respondents" participating in any assessment. Again, there is neither a suggestion of combining the two references nor, even if combined, a teaching, suggestion, or motivation to combine which appears to show those limitations of Applicants' claim 1.

Still further, Applicants' claim 1 step (f) describes "sending the assessment report to one or more locations authorized by the set of permissions associated with the password". D'Alessandro describes how the data received from respondents is analyzed and compiled but does not teach that limitation. Phillips does not speak to assessment reports or sending such reports as described in Applicants' claim 1. Thus, again, it is respectfully submitted there is neither a suggestion to combine the references nor a teaching of the Applicants' claim 1, even if those references are combined.

The importance of these distinctions is set forth explicitly in Applicants' specification. The "Background of the Invention" and "Brief Summary of the Invention" describe objects and advantages of being able to control distribution of documents over a widely distributed network where control is based on the "set of permissions" associated with the password. Employee assessments are valuable instruments. The need to know their content varies greatly between different entities. The ability to get the information to the appropriate authorized entity in a quick, efficient, and accurate manner is important, as pointed out in Applicants' specification.

Claim 1 defines that method with the specific limitations described above, which are neither disclosed nor taught by D'Alessandro alone, Phillips alone, or those two references even if combined. It is therefore respectfully submitted claim 1 is allowable over the obviousness rejection.

Independent claims 28 and 35 have similar limitations to independent claim 1. They are submitted to be allowable for the reasons expressed with respect to claim 1. The remaining claims are dependent claims from one of the independent claims. They are submitted to be allowable for the reasons expressed in support of the independent claims.

The Office Action, page 3, numbered paragraph 6, alleges D'Alessandro teaches step (f) of Applicants' claim 1, citing D'Alessandro column 8, lines 52-column 9, line 6. However, that section of D'Alessandro is not describing where assessment reports are sent. It rather is describing what types of factors are analyzed about a company. Office Action, page 5, paragraph 10, alleges D'Alessandro teaches assessments can be sent to a "a master distributor, a distributor, a client, and a respondent", citing column 6, lines 6-22. That section only speaks to respondents and has no mention of any type of distributor or master distributor.

Other dependent claims are neither taught nor suggested by D'Alessandro or Phillips.

Certain of the dependent claims have been rejected on the basis of D'Alessandro and Phillips in combination with other cited references. However, it is respectfully submitted that none of those cited references fill any gaps in the teaching of D'Alessandro and Phillips and those claims are also submitted to be allowable.

Conclusion

It is respectfully submitted that all matters raised in the Office Action have been addressed and remedied and that the application is in form for allowance.

This is a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for two months from March 9, 2005 to May 9, 2005. Applicant is a small entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$225.00 for two months to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084. No additional fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



EDMUND J. SEASE, Reg. No. 24,741
McKEE, VOORHEES & SEASE, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721
Phone No. (515) 288-3667
Fax No. (515) 288-1338
CUSTOMER NO: 22885
Attorneys of Record

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